



THE ATTORNEY GENERAL OF TEXAS

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December 20, 1971

The Honorable Bevington Reed
Commissioner of Higher Education
Coordinating Board
Texas College and University System
P.O. Box 12788 Capitol Station
Austin, Texas 78711

Opinion No. M-1019

Re: Authority of Coordinating Board to microfilm records of student borrowers under the Hinson-Hazelwood College Student Loan Program, Article 2654g, Vernon's Civil Statutes, regardless of whether their accounts have been paid in full, and related questions.

Dear Mr. Reed:

In your recent letter to this office you ask our opinion concerning the following questions:

1. Does the Coordinating Board have the authority to microfilm records of Hinson-Hazelwood College Student Loan borrowers, whether or not their accounts have been paid in full?
2. Will microfilm copies of legal documents such as applications, notes, etc, be acceptable as legal evidence?
3. If affirmative opinions are issued for Questions 1 and 2, and all such files are micro-filmed, does the Coordinating Board have authority to destroy the original files of all Hinson-Hazelwood College Student Loan borrowers regardless of whether their accounts have been paid in full or not?

The Coordinating Board, Texas College, and University System, is charged by Section 1, of Article 2654g,¹ with the administration of the student loan program authorized pursuant to the Texas

¹ All Articles referred to are Vernon's Civil Statutes.

Constitution, Article III, Section 50b.

Section 4 of Article 5441a, permits the head of any department or institution of this State to request that the State Director and Librarian make photographic reproductions of the public records of the department or institution. By satisfying the various provisions of Article 5441a, the Coordinating Board may commit to microfilm any of the official public records of the Board. It is the opinion of this office that such microfilming of college student loan records would be permissible without regard to whether the accounts have been paid in full.

Article 3731b provides for the admissibility into evidence in judicial proceedings of microfilm copies of official state records. We conclude from this that even though you did not destroy the original of the loan records in question, the microfilm copy of such original records would be available for legal purpose, provided the provisions of Article 3731b are satisfied.

Article 5441a, establishes the procedure by which original public records of the State may be destroyed. Section 3 of that Article provides, in part, as follows:

"Furthermore, with the approval of the State Director and Librarian the head of any department or institution may destroy any public records in his custody which, in his opinion have no further legal, administrative or historical value, provided, however, that he shall first file application to do so with the State Director and Librarian, describing in such application the original purposes and contents of such public records, and provided further, that the approval of the State Auditor shall also be acquired with regard to the destruction of public records of a fiscal or financial nature."

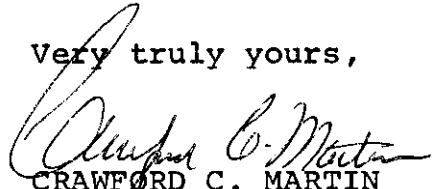
Until the approval required by this statute has been secured the original "public record" of the State may not be destroyed.

S U M M A R Y

The Coordinating Board of the Texas College and University System has authority under Section 4 of Article 5441a, Vernon's Civil Statutes, to microfilm loan records (public records) made under the college student loan program, Article

2654g, Vernon's Civil Statutes, without regard to whether the loan accounts have been paid in full. The originals of the microfilmed public records may not be destroyed until the provisions of Article 5441a, Vernon's Civil Statutes, have been satisfied.

Very truly yours,


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